

**REMARKS/ARGUMENTS**

This case has been reviewed and analyzed in view of the Final Official Action dated 8 February 2007. Responsive to the objections and rejections made by the Examiner in the outstanding Official Action, Claims 38, 45, and 52 have now been amended and Claims 42 and 43 have been canceled from this case to more clearly clarify the inventive concept of the Applicant.

The Examiner has rejected claims 38-48 and 51-55 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Specifically, independent claims 38, 45, and 52 recite the claim limitation “a synthetic or cotton yarn sewing thread...”.

Claims 38, 45, and 52 have been amended to remove the limitation cotton yarn sewing.

The Examiner has rejected claims 38, 39, 42, and 51 under 35 U.S.C. 103(a) as being unpatentable over Marshall (US 4205680 A) in view of McAvinn (US 4244369 A). Additionally, the Examiner rejected claims 40, 41, 47, and 48 under 35 U.S.C. 103(a) as being unpatentable over Marshall (US 4205680 A) in view of McAvinn (US 4244369 A), and further in view of Debusk (US 5792128 A). Also, the Examiner rejected Claims 52 and 53 under 35 U.S.C. 103(a) as being unpatentable over McAvinn (US 4244369 A). Additionally, the Examiner rejected claims 54-55 under 35 U.S.C. 103(a) as being unpatentable over McAvinn (US 4244369 A) in view of Debusk (US 5792128 A).

In setting forth these rejections, the Examiner acknowledged that the Marshall reference did not disclose the limitation of the thread for stitching the hem to be of a different color than the fabric and the thread color to be visually identifying the surgical towel as x-ray detectable.

Also, the Examiner acknowledged that the Marshall reference did not expressly disclose the ply ratio of the sheet of woven cotton fabric.

As newly-amended independent Claims 38, 45, and 52 each now more clearly recite, Applicant's surgical towel comprises x-ray detectable material comprising identifying characteristics to identify an x-rayed object as a surgical towel, said identifying characteristics comprising a brand name or number. The use of the identifying characteristics allows the surgical towel to be identified as an X-ray detectable towel upon x-ray.

Additionally, as newly-amended independent Claims 38, 45, and 52 each now more clearly recite, Applicant's surgical towel comprises a woven single-ply sheet of 100% cotton.

Furthermore, as newly-amended independent Claim 52 now more clearly recites, Applicant's surgical towel comprises "multiple pieces of x-ray detectable material".

The full combination of these and other features now more clearly recited by Applicant's pending Claims is nowhere disclosed by the cited references.

As the Examiner readily acknowledged, the primarily-cited Marshall reference fails to disclose the thread to stitch the hem to be a different color than the fabric to allow the surgical towel to be visually identifiable as X-ray detectable.

None of the cited references disclose “a synthetic thread for stitching the hem, the thread of a different color than a color of the fabric, the synthetic thread color visually identifying the surgical towel as x-ray detectable when said surgical towel is external to a patient’s body” as recited by the newly-amended independent claims. Not only do the cited references fail to disclose thread of a different color than the color of the fabric, but further, none of the cited references disclose that the thread used to stitch the hem is a different color than the color of the fabric.

In use, medical personnel can easily visually identify that the Applicant’s towel is X-ray detectable just by looking at the colored thread. For example, if the towel fabric is blue and the thread used to stitch the hem is yellow the color contrast allows a person to instantly know that this towel is X-ray detectable. Conventional towels and well as the cited references inventions do not provide this important feature.

Yet further, none of the references disclose or even suggest, identifying characteristics comprising a brand name or a number as recited by the newly amended independent claims. The brand name identifies the manufacturer or distributor of the surgical towel or the hospital or surgeon that used the surgical towel. The number is used to identify the lot number or the specific towel number such as a serial number. These

identifying characteristics identify that the object seen in an X-ray is actually and specifically a surgical towel and not a different type of object such as a lap sponge. Additionally, the brand name can identify the hospital or doctor who used the towel. This can provide proof for the patient that a particular hospital or doctor is responsible for leaving the surgical towel in the patient. Also, this provides proof for medical institutions or medical personnel to avoid malpractice lawsuits when it is determined that the brand name on the surgical towel is not theirs.

Furthermore, none of the cited references disclose “*multiple pieces* of x-ray detectable material through which the hem stitching is sewn” as recited by newly-amended Claim 52. Utilizing multiple pieces of x-ray detectable material allows the Applicant’s surgical towel to be more readily apparent when x-rayed. None of the cited references provide this important feature.

Additionally, the Applicant’s surgical towel comprises a single-ply sheet of woven cotton fabric. Utilizing a single-ply fabric allows the Applicant’s surgical towel to be inexpensively manufactured while providing excellent absorption. Also, using a natural material such as the Applicant’s 100% cotton provides a surgical towel that is conducive to surgical procedures and safer for patients.

It is respectfully submitted, therefore, that the cited Marshall, McAvinn et al. and DeBusk references, even when considered together, fail to disclose the unique combination of elements now more clearly recited by Applicant’s pending Claims for the

purposes and objectives disclosed in the subject Patent Application. In fact, the references teach quite clearly away from the claimed subject matter in certain notable respects, such as the use of metallic portions, the lack of having an X-ray detectable towel visually identifiable when external to a patient's body, the lack of multiple pieces of X-ray detectable material, and the lack of identifying characteristics comprising a brand name or number.

The other references cited by the Examiner but not used in the rejection are believed to be further remote from Applicant's claimed surgical towel when patentability considerations are taken properly into account.

It is now believed that the subject Patent Application has been placed in condition for allowance, and such action is respectfully requested.

***THIS AMENDMENT HAS BEEN PREPARED BY THE APPLICANT AND IS  
BEING FILED BY THE UNDERSIGNED ATTORNEY WITH NO SUBSTANTIVE  
CHANGES.***

MR1035-1346

Application No. 10/720,206

Responsive to Final Official Action dated 8 February 2007

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For: ROSENBERG, KLEIN & LEE

8 August 2007

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